

STATEMENT OF
THE HONORABLE NORMAN Y. MINETA
SECRETARY OF TRANSPORTATION
BEFORE THE SUBCOMMITTEES ON
TRANSPORTATION
COMMITTEE ON APPROPRIATIONS

and
SURFACE TRANSPORTATION AND MERCHANT MARINE
COMMITTEE ON COMMERCE, SCIENCE,
AND TRANSPORTATION
UNITED STATES SENATE

JUNE 27, 2002

Madam Chairwoman, Mr. Chairman and Members of the Subcommittees, it is a pleasure to appear before you today and to have the opportunity to report on the progress that the U.S. Department of Transportation has made to ensure the safe operation of Mexico-domiciled carriers once the President acts to implement the North American Free Trade Agreement's (NAFTA) transportation access provisions along our Southern border.

INTRODUCTION

The Department is appreciative of the work of Congress on the FY 2002 Transportation and Related Agencies Appropriations Act (the Act). The bill offered clear guidance on the necessary elements required to assure the compliance of Mexican commercial truck and bus companies with U.S. safety regulations.

Section 350 of the Act set forth 22 steps that needed to be taken before the Department could process any applications from Mexican carriers during the fiscal year. Also, it required the DOT Inspector General (IG) to conduct a comprehensive review of border operations within 180 days of enactment.

We have worked diligently to take the steps required of us in the Act, and I am pleased to report that we have succeeded. This was an intensive effort on the part of many agencies and individuals. It could not have been accomplished without the able leadership of Administrator Joe Clapp and the commitment of the staff of the Federal Motor Carrier Safety Administration (FMCSA), the Department, other Federal agencies, and our State partners. In the process, we have worked closely with the Mexican Government in numerous face-to-face meetings.

As I indicated, the Act directs the DOT IG to conduct a review of our Southern border operations, and evaluate the Department's performance. During these past months, Department staff met regularly with the IG staff to discuss the progress on these issues. I particularly wish to thank Inspector General Kenneth Mead. The insight and analysis he and his staff provided us over this period proved extremely useful in assisting us to appropriately focus our activities.

Now that the Inspector General has issued his report, by law I must evaluate it and determine if I can certify that opening the border does not pose an unacceptable safety risk. Only after this certification is made and the President lifts the moratorium, will Mexico-domiciled motor carriers be allowed to operate outside the commercial zones. The Inspector General has raised a few issues, and we are working hard to address them. I want to assure you, on behalf of President Bush, that the border will not be opened unless it can be done safely. We do expect to fully address all issues identified in the IG's report, to allow the border to open in the near future.

REQUIREMENTS OF THE APPROPRIATIONS ACT

The Act called for numerous conditions to be met before DOT could process applications for Mexico-domiciled motor carriers to operate outside of the border commercial zones this year. All of these conditions have been met. The chart attached to my testimony illustrates the tasks and the progress to date. Today I would like to highlight several of our major activities.

Staffing

One of the most significant challenges was to hire, train, and deploy enforcement staff for border operations. The enforcement staff is composed of three distinct groups: Border Inspectors, Safety Auditors, and Safety Investigators. The Border Inspectors are charged with conducting roadside inspections of vehicles and drivers. The Safety Auditors will conduct safety audits of carriers prior to the FMCSA's issuance of provisional authority to operate beyond the commercial zones. The Safety Investigators will conduct Compliance Reviews of these carriers within their first 18 months of operations — after they have established an operating history.

By the end of this month, we will have hired and trained 144 individuals to perform Border Inspector functions. In addition to Border Inspectors, we have made significant progress in meeting our target for Safety Auditors. By the end of June, we will have hired all 67 Safety Auditors and all of these Safety Auditors will be trained and deployed by July 29. We have also recently issued selection certificates for Safety Investigators in Arizona and California. In addition, the review of employment applications for Texas Safety Investigators is underway.

Although we have begun to hire Safety Investigators now, they will not be required to perform safety audits until approximately 6 — 18 months from now, when they will be performing the actual audits. In the meantime, these staff will augment our inspection and audit staff.

Oversight Process for Mexico-domiciled Carriers

The Act directed DOT to revise and complete its May 2001 proposed safety oversight regulations. On

March 19, we issued final regulations establishing this safety oversight system. These regulations help ensure that Mexico-domiciled carriers operating in the U.S. will meet the same Federal Motor Carrier Safety Regulations (FMCSRs) that U.S. and Canadian carriers must satisfy. Now, Mexican carriers will be required to demonstrate that they have met U.S. requirements, such as having a drug and alcohol testing program, a system of compliance with U.S. hours-of-service requirements, valid insurance with a U.S. registered insurance company, and adequate vehicle maintenance and driver records, all before receiving operating authority.

The regulations also provide that DOT will conduct a safety audit of each carrier prior to the issuance of provisional operating authority, and a compliance review prior to granting the carrier permanent operating authority. Congress also directed FMCSA to conduct 50% of the safety audits and compliance reviews on-site in Mexico — and we will do so. In addition to the safety audit and compliance review requirement, our oversight includes a process for expedited enforcement action against those carriers committing specified offenses, such as operating without a commercial driver's license (CDL), operating vehicles that have been placed out of service, and operating an uninsured vehicle.

Vehicle Inspections

We have issued regulations requiring Mexican vehicles operating beyond the commercial zones to be inspected every 90 days and to display a valid Commercial Vehicle Safety Alliance (CVSA) inspection decal. This provision applies to the provisional operating authority period and for 36 months after receiving permanent authority. We have also signed agreements with all four border States requiring State inspectors to conduct inspections of all Mexico-domiciled vehicles not displaying a valid CVSA decal during the provisional period, and for a period of three years after permanent authority has been issued to the carrier.

Other Requirements

Weigh In Motion Scales. Weigh in Motion (WIM) Scales are in place at 8 of the 10 highest volume crossings, and static scales are in place for enforcement at all commercial crossings. This exceeds the 5 WIMs as required by the Act. The remaining 2 WIMs will be in place by year-end.

Verification of License Status. Inspectors will electronically verify the status and validity of the licenses of 100% of the Mexico-domiciled CMV drivers operating beyond the commercial zones — exceeding the requirements of the Act.

DOT Numbers. A distinct DOT Number will be assigned for Mexico—domiciled carriers engaging in operations beyond the commercial zone. The number must be affixed to the vehicle in a visible location.

Staffing at Crossings. FMCSA or State motor carrier inspectors will be on duty at all crossings that U.S. Customs Service has designated commercial crossings during operating hours.

Operating Authority Violations. State inspectors will enforce regulations concerning operating

authority of Mexico-domiciled carriers or notify FMCSA staff so that it may take any enforcement actions necessary.

Facilities on Federal Sites. We have constructed appropriate inspection facilities and out-of-service parking areas to provide adequate capacity for conducting inspections and detaining-out-of-service vehicles. These improvements include paving and site utility work, installation of portable office buildings, construction of inspection bays, and construction of parking areas.

Related Rules and Study. As required by the Act, we have published the New Entrant Rule for U.S. and Canadian carriers, the Rule for Certification of Inspectors and Auditors, the Border Staffing Study, and initiated a Weigh in Motion site determination study.

Hazardous Materials Driver Requirements

The USA Patriot Act requires a security check on any holder of a CDL that has a hazardous materials endorsement. The USA Patriot Act applies to new applications and renewals. The regulation to implement this act is currently under Departmental review. We have had several conversations with both Mexican and Canadian officials about the requirements of the law. Mexican and Canadian CMV drivers operating vehicles transporting hazardous materials will not be permitted to operate beyond the commercial zones until security driver license checks, comparable to those performed on U.S. drivers, have been done.

FMCSA is working with the Transportation Security Administration (TSA) and the U.S. Customs Service to address overall security aspects of cross-border operations. FMCSA expects to continue to meet with TSA, Customs, the Immigration and Naturalization Service, and other government agencies involved in border security, to ensure that our safety programs are consistent and are integrated with their security-focused initiatives.

The United States Customs Service is the lead agency for border security. Motor carrier safety inspectors have been trained to look for security risk indicators on commercial vehicles. If indicators are present, motor carrier inspectors have been instructed to notify Customs immediately. The partnership US DOT and the States have with Customs at the various ports is important in the detection of security risks at the border.

Border Infrastructure Grants

Beyond our immediate efforts to assure the safe operation of Mexican carriers, we are also focused on improving our border infrastructure to handle increasing traffic volumes in the future. In this regard, I announced the awarding of grants to the four southern border States for infrastructure improvements at border inspection stations. With the distribution of these funds, we look to strengthening our partnership with the States in the inspection process.

Funds for the Border Infrastructure Program (BIP) were made available by Congress from the Federal-aid highway revenue aligned budget authority to be distributed among the States of Arizona, California, New Mexico, and Texas. Of the \$54 million available, \$2.1 million was awarded to Arizona; \$8.9 million to California; \$2.2 million to New Mexico; and \$40.8 million to Texas. Four

criteria were used to award the grants: safety, number of commercial vehicles, delays, and traffic patterns.

The objective of the grant program is twofold: the safe operation of Mexico-domiciled commercial motor vehicles operating in the United States and improved traffic flow at border crossings in the four border states. Examples of the types of projects funded under the BIP are construction of eight new commercial motor vehicle safety inspection facilities at the border in Texas, upgrade and final construction of an automated port of entry at the Santa Teresa, NM, border crossing, and construction of additional inspection bays and parking areas for out-of-service vehicles at the commercial vehicle enforcement facility at Calexico, CA.

CONCLUSION

In closing, I want to say that the Department is committed to ensuring the enhanced safety and security of commercial vehicle operations at our borders. At our Southern border, DOT has been inspecting Mexican trucks and buses since 1995. The guidance and additional resources provided by Congress have allowed us to continue to build on that strong program. By mid-summer, DOT will have more than four times the number of personnel we had at the border in mid-2001.

We are confident that we have achieved our shared goal of setting a firm safety foundation for expanded cross—border operations. When operating authority is granted, Mexico—domiciled carriers, as well as U.S. and Canadian carriers, will all be governed by the same safety standards when operating in the United States.

At this time we have received a small number of applications from Mexico-domiciled carriers to operate beyond the commercial zones. To date, 31 Mexican long-haul carriers have applied for authority to operate in the interior of the United States, and 101 have applied to operate within the commercial zones.

As you can see from these numbers, it appears that interest among Mexican carriers for expanded authority is beginning at a somewhat gradual pace. Applications from Mexico-domiciled carriers will be processed as they are submitted. However, the border will not be opened to expanded cross-border access until I have certified that the border can be safely opened, and the President has lifted the moratorium on Mexico—domiciled carrier access.

In addition to taking the steps set out for us by Congress, we have been working closely with our Canadian and Mexican counterparts to identify and resolve the numerous operational issues involved in opening the border to cross-border motor carrier traffic. I want to thank the governments of both Mexico and Canada for their cooperation. Our goal is to work together to realize the promise of one market in North America, while ensuring the safety and security of our citizens.

Madam Chairwoman, Mr. Chairman, the actions of your committees in creating the FMCSA and in setting high standards for opening the Southern border have been instrumental in bringing about the unprecedented preparations I have discussed today. You are to be commended for your roles in these achievements.

I look forward to your questions today and to working with Congress in the months ahead. I thank you once again for the opportunity to highlight the steps we have taken to ensure that our NAFTA commitments are fulfilled in a safe and secure manner.

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